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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/528,074

03/17/2005

Hugues Van Den Bergen

2005_0442A

2787

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7590

06/09/2008

WENDEROTH, LIND & PONACK, L.L.P.

2033 K STREET N. W.

SUITE 800

WASHINGTON, DC 20006-1021

EXAMINER

MCNALLY, DANIEL

ART UNIT

PAPER NUMBER

1791

MAIL DATE

DELIVERY MODE

06/09/2008

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Advisory Action Before the Filing of an Appeal Brief	Application No. 10/528,074	Applicant(s) VAN DEN BERGEN ET AL.	
	Examiner DANIEL MCNALLY	Art Unit 1791	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 07 May 2008 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
 b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
 (a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
 (b) ☐ They raise the issue of new matter (see NOTE below);
 (c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
 (d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
 5. ☐ Applicant's reply has overcome the following rejection(s): _____.
 6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
 7. ☒ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
 The status of the claim(s) is (or will be) as follows:
 Claim(s) allowed: _____.
 Claim(s) objected to: _____.
 Claim(s) rejected: 22-42.
 Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
 9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
 10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:
See Continuation Sheet.
 12. ☐ Note the attached Information *Disclosure Statement*(s). (PTO/SB/08) Paper No(s). _____.
 13. ☐ Other: _____.

/Daniel McNally/
 Examiner, Art Unit 1791

/John L. Goff/
 Primary Examiner, Art Unit 1791

Continuation of 11. does NOT place the application in condition for allowance because: Applicant argues Nolte does not relate to any radiation curable intermediate material to be employed in the laminate. The examiner admits Nolte does not disclose using a radiation curable composition but relies upon the teachings of Van Den Bergen for the use of a radiation curable intermediate material (paragraph 4 of Office action dated 1/7/2008). Applicant argues this combination uses hindsight to arrive at the applicant's invention, and that it is unobvious for a reader of Nolte to select the generic UV curable coatings of Van Den Bergen. The motivation cited in paragraph 4 of Office action dated 1/7/2008 recites using the composition of Van Den Bergen in the lamination of Nolte in order to avoid the occurrence of blooming. Applicant suggests there is little incentive for a reader to try new materials (materials of Van Den Bergen) with the structure of Nolte. Further motivation to use the materials of Van Den Bergen could be to simplify the laminating process which would not require the coating of multiple layers, as is required by Nolte to resolve the blooming issue.

Applicant argues the teachings of secondary references, Takasi, Takahashi and Wu are pulled from different fields and use impermissible hindsight. Applicant argues Takasi is from the field of DVD. DVD's are typically made by laminating process which sandwiches an adhesive between two substrates. Furthermore DVD's can be made of glass or polycarbonate materials, which are not outside of the scope of the claim. Applicant argues the rejection of claim 41 with respect to the teachings of using thermal or radiation curing. Applicant's arguments are moot because the claim is a composition claim and the composition is not limited by the method of making the composition. Applicant argues the teachings of Takahashi and Wu do not remedy the deficiencies of Nolte and Van Den Bergen. Paragraph 7 of the Office action dated 1/7/2008 recite the reasons for adding the teachings of Takahashi and Wu. It is well within the skill of one of ordinary skill in the art to optimize and select an adequate level of additives to ensure improved characteristics without decreasing the functionality of the invention.

Applicant argues one would be deterred from using the composition of Vollkommer because the composition releases HBr when pyrolyzed. This argument is not commensurate with the scope of the claim. The claim does not limit the gases released during curing of the composition. .